

**STATE OF NEW MEXICO  
BEFORE THE SECRETARY OF ENVIRONMENT**

**IN THE MATTER OF:**

**PETITION FOR REVIEW OF  
THE STATE CERTIFICATION  
OF LOS ALAMOS NATIONAL LABORATORY  
INDIVIDUAL STORMWATER PERMIT  
NPDES PERMIT NO. NM0030759**

**No.: SWQB 20-78**

**Newport News Nuclear BWXT-Los  
Alamos, LLC and United States Department of Energy,**

**Petitioners.**

**SCHEDULING AND PROCEDURAL ORDER**

THIS MATTER having come before the Hearing Officer on the Secretary of the New Mexico Environment Department's ("NMED" or "Department") January 14, 2021, *Notice of Docketing and Order of Hearing and Appointment of Hearing Officer* and following the January 26, 2021, teleconference attended by all the parties, and being fully advised of the Governor's Executive Orders and applicable public health orders,

THE HEARING OFFICER enters the following order establishing procedures and a schedule for this matter:

1. The parties agree that 20.6.2.2001(H) NMAC governs the procedures of this appeal hearing, and that the procedures of 20.1.4 NMAC do not apply.
2. The public appeal hearing in this matter shall be held via Zoom to commence at 9:00 a.m. on June 16, 2001 and may continue through June 17, 2021 as necessary.
3. Participation:

(a) Entry of Appearance: Any person who wishes to be a party shall file, and serve upon all other parties of record, an Entry of Appearance, on or before

the deadline set forth in the Notice of Hearing. A timely Notice of Intent to Present Technical Testimony shall be considered an Entry of Appearance, if the person filing such statement has not previously filed a separate Entry of Appearance.

(b) Effect of Failure to File: Failure to file a timely Entry of Appearance shall preclude a person from being a party to the proceeding but shall not preclude a person from presenting a general written or oral statement or non-technical testimony during the appeal hearing.

4. Notices of Intent to Present Technical Testimony and Pre-Filed Direct Technical Testimony: Any person who intends to present technical testimony, including technical evidence, at the hearing must file a Notice of Intent to Present Technical Testimony, which shall:

- (a) identify the person filing the notice;
- (b) identify each witness, including name, address, affiliation(s), and educational and work background;
- (c) identify all exhibits which are part of the record and, for exhibits not part of the record, attach a copy;
- (d) list or make available all technical materials relied upon by each witness in making statement of technical fact or opinion contained in his or her direct testimony; and
- (g) attach the full testimony of each witness, stating any opinion(s) to be offered by such witness, and an explanation of the basis for such opinion(s).

5. The Notice of Intent, including pre-filed direct technical testimony shall be filed with the Hearing Clerk on or before April 30, 2021, and an electronic copy served on all other parties. Technical evidence or testimony means scientific,

engineering, economic or other specialized evidence or testimony. It does not mean legal argument, general comments or statements of policy.

6. Pre-Filed Rebuttal Technical Testimony: Pre-filed rebuttal technical testimony shall be filed no later than June 1, 2021 and served on all parties.
7. Order of Testimony: Unless otherwise agreed to by the parties, testimony shall be presented in the following order:

- (a) direct and rebuttal testimony and examination of the Petitioners' witnesses;

- (b) direct and rebuttal testimony and examination of the Department's witnesses;

- (c) direct and rebuttal testimony and examination of any other Party's witnesses;

- (d) public comment; and

- (f) rebuttal testimony by the parties, as appropriate, in the same order as the direct and rebuttal testimony in the proceeding.

8. Public comment: The Hearing Officer will accept non-technical public comment at various and convenient times between and at the end of the technical presentations. Non-technical public commenters are strongly encouraged to submit their comments in writing to the Hearing Clerk (Madai Corral, Madai.Corral@state.nm.us) either before or during the hearing. Depending on how many members of the public offer oral comment, the time for each commenter may be limited to as little as 3 minutes. Commenters may offer oral comment once; written comment is unlimited.

9. Cross Examination: In accordance with 20.6.2.2001(H) NMAC, the Hearing Officer may question any person presenting oral or pre-filed written testimony. Cross examination of persons presenting testimony or statements shall not otherwise be allowed.
10. Notice: The Department shall prepare a public notice of the hearing in English and in Spanish, including the elements required by 20.6.2.2001(H) NMAC, and provide such notice to the public in the manner described in 20.6.2.2001(D)(2) NMAC no later than forty-five (45) days prior to the public hearing.
11. Accommodations: The Department shall provide a way for those who wish to participate in the hearing in Spanish to do so, and for those who are hearing-impaired and wish to participate in the hearing to do so, should these accommodations be requested prior to the hearing.
12. Filing the Transcript: The hearing shall be transcribed verbatim, and recorded by Zoom. The Hearing Clerk shall promptly notify all parties of the availability of the transcript and the Zoom recording. Any person desiring a copy of the transcript shall order a copy from the court reporter at his or her own expense. Any person desiring a copy of the Zoom recording shall arrange copying with the Hearing Clerk at his or her own expense.
13. Proposed Findings and Conclusions and Closing Argument: Any party may submit proposed findings of fact, conclusions of law, and closing argument within 15 days after filing of the transcript. All submissions shall be in writing and shall contain adequate references to the Hearing Record and authorities relied upon. No new evidence shall be presented.

14. Hearing Officer Report: Within 30 days after the filing of proposed findings and conclusions, and closing arguments, the Hearing Officer shall submit a recommended decision, including proposed findings of fact and conclusions of law, to the Secretary.

Gregory  
Chakalian



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Gregory Chakalian  
Date: 2021.02.18  
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GREGORY CHAKALIAN  
Hearing Officer

## Certificate of Service

I hereby certify that on February 18, 2021 a copy of the *Scheduling and Procedural Order* was sent to the persons listed below.

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/s/ Madai Corral

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